

PTO/SB/29 (10-00)

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CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL

Submit an original, and a duplicate for fee processing.
(Only for Continuation or Divisional Application under 37 CFR 1.53(d))

CHECK BOX, if applicable:
☐ DUPLICATE

Address to: Assistant Commissioner for Patents Box CPA Washington, DC 20231	Attorney Docket No.	10A 2981 DIV
	First Named Inventor	Shigeru Hatakenaka
	Examiner Name	Curtis E. Sherrer
	Group Art Unit	1761
	Express Mail Label No.	EL954006584US

This is a request for a ☐ continuation or ☒ divisional application under 37 CFR 1.53(d) (continued prosecution application (CPA)) of prior application number 09/618,306 filed on July 18, 2000, entitled VINEGAR USING SEA WATER AND SEASONING THEREOF.

NOTES

FILING QUALIFICATIONS: The prior application identified above must be nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an international application in compliance with 35 U.S.C. 371. Effective May 29, 2000, a CPA may only be filed in a utility or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Continued Examination Practice changes to and Provisional Application Practice," Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office (Apr. 11, 2000).

C.I.P. NOT PERMITTED: A continuation in part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

EXPRESS ABANDONMENT OF PRIOR APPLICATION: The filing of the CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.59(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

ACCESS TO PRIOR APPLICATION: The filing of the CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

35 U.S.C. 120 STATEMENT: In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(e)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

1. ☐ Enter the unentered amendment previously filed on _____ under 37 C.F.R. 1.116 in the prior nonprovisional application.
2. ☒ A preliminary amendment is enclosed.
3. This application is filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4).
 - a. ☐ DELETE the following inventor(s) named in the prior nonprovisional application:
 - b. ☐ The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4. ☐ A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
5. Information Disclosure Statement (IDS) is enclosed:
 - a. ☐ PTO-1449
 - b. ☐ Copies of IDS Citations

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box CPA, Washington, DC 20231.

10A 2981 DIV

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

SHIGERU HATAKENAKA

Serial No: 09/618,306

Filed: July 18, 2000

For: VINEGAR USING SEA WATER AND
SEASONING THEREOF

Examining Group: 1700

Attention: Ms. Freda Nelson

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APR 11 2006

RESPONSECommissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

On February 14, 2003, Applicant filed a divisional application under 37 CFR 1.53(d) and attached hereto is a copy of that request. On April 1, 2004, the undersigned received a communication from Ms. Freda Nelson of Examining Group 1700 dated March 26, 2004 and the notice indicated that the divisional application filed on February 14, 2003 was an improper Request for Continued Examination (RCE) and a copy of that communication is attached hereto.

The undersigned reviewed this notice and determined that it was improper and immediately called Ms. Freda Nelson of Examining Group 1700 and referred her to the copy of the request which indicates that it was clearly a divisional application under 37 CFR 1.53(d). Ms. Nelson agreed with the undersigned and stated that the notice was improperly sent.

The undersigned then asked Ms. Nelson if Applicant needed to do anything further to reply to this notice and was assured by Ms. Nelson that nothing else was required and that she would withdraw this notice. Apparently, the Examiner in charge of this case at the time, namely Adam Meyers of Art Unit 1761, did not receive any such notice of withdrawal and on October 20, 2005 abandoned the above-identified application for failure to respond to the notice of improper Request for Continued Examination, a copy of which is attached hereto and which was downloaded from the USPTO website. Apparently, this notice of abandonment was sent to the wrong address and the undersigned and Applicant discovered this holding of abandonment on

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their own investigation after not receiving any communication from the Patent Office for a long while.

The undersigned on behalf of Applicant has been attempting to contact the Examiner, namely Mr. Adam Meyers, but has recently discovered that Mr. Meyers has left the Patent Office. As a result, the undersigned has made several attempts to contact Mr. Meyer's Supervisory Examiner, namely Mr. Cano, but so far has been unable to contact even though the undersigned called and left telephonic messages to call the undersigned with Mr. Cano's voicemail.

In addition, the undersigned has further investigated the facts of this case and has discovered that the Examiner entered an interview summary dated October 14, 2005 indicating that the Examiner had a telephonic interview with the undersigned about the undersigned's failure to respond to the notice of improper RCE of March 26, 2004. The undersigned has no recollection of such a telephonic interview and further investigated the file to find if there was any record in Applicant's file whether such an interview had occurred. The undersigned has found no evidence in the file to indicate that there was any such telephonic interview and also inquired with the other members of undersigned's office to determine if anyone else in the office remembers any such telephonic interview or call. The results of this investigation have been entirely negative and no one remembers any such call or inquiry. The only annotation in undersigned's file is an indication that the undersigned called Ms. Nelson again on May 26, 2004 and was assured that the application was still alive and pending.

In view of the facts set forth above, Applicant respectfully submits that Applicant has done all Applicant can do to correct this matter and respectfully submits that the original notice of improper RCE was improperly issued and the notice of abandonment was as a result of a Patent Office mistake.

Respectfully submitted,
KODA & ANDROLIABy: 
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Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office Fax No. (877) 273-6300 on April 11, 2006.

William L. Androlia

Signature

Date

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